

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

LARRY L. KOGER,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-0909

NORFOLK SOUTHERN RAILWAY  
COMPANY,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is plaintiff's motion in limine to bar any evidence from Jayson Browning or any other lay witness concerning their opinions as to whether plaintiff was injured. (Doc. # 86). The motion is GRANTED in part and DENIED in part. As the court informed the parties at the pretrial conference, Browning and other lay witnesses may testify as to what they personally observed following the accident but they may not offer medical opinions. Furthermore, defendant is prohibited from offering evidence regarding the charge letter accusing Koger of falsifying his injury. The probative value of the falsification charge, if any, is outweighed by the danger of unfair prejudice.

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record.

**IT IS SO ORDERED** this 12th day of November, 2009.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge